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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,616	01/20/2004	Mark Jeffrey Smith	1310.03	9946
29637	7590	09/26/2005	EXAMINER	
BUSKOP LAW GROUP, P.C. 1776 YORKTOWN SUITE 550 HOUSTON, TX 77056			TAYLOR, BARRY W	
			ART UNIT	PAPER NUMBER
			2643	

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/760,616	<b>Applicant(s)</b> SMITH, MARK JEFFREY	
	<b>Examiner</b> Barry W. Taylor	<b>Art Unit</b> 2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/01/04</u> .   | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-3, 6-7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Higgins (2003/0185169) in view of Burstein (2003/0193307).

Regarding claim 1. Higgins teaches a wireless communication device (title, abstract) for communicating information from a bidirectional high speed data cable modem via an Ethernet connection (paragraphs 0011-0012) using a first radio transceiver at a first location and communicating with a second radio transceiver at a customer's premises comprising:

a housing containing a bidirectional high-speed modem operably connected to a first radio transceiver, a first radio-processing card, and a switching power supply (see wireless modem, item 16 figure 2);

a splitter (see splitter, item 22 in figure 2 providing both data and power on same cable, paragraph 0024).

Higgins does not explicitly show modem having fan.

Burstein teaches cooling modem by using fan to evacuate warm air from modem enclosure (paragraph 0004).

It would have been obvious for any one of ordinary skill in the art at the time of invention to utilize the teachings of Burstein into the teachings of Higgins in order to remove heat from the modem enclosure.

Regarding claims 2-3. Higgins teaches high-speed modem (title, abstract, paragraphs 0010-0013, 0024-0027).

Regarding claim 6. Higgins teaches modem having environmental enclosure (abstract) .

Regarding claim 7. Higgins shows using two wireless modems (figure 3).

Regarding claim 9. Higgins teaches wireless modem is a router (see figure 2 wherein wireless modem 16 routes information down to workstation 24).

2. Claims 4-5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Higgins (2003/0185169) in view of Burstein (2003/0193307) further in view of Bishop et al (6,377,782 hereinafter Bishop).

Regarding claims 4-5. Higgins in view of Burstein fail to use the term "DOCSIS".

Bishop teaches wireless modem that is DOCSIS compliant and provides automatic registration, encryption, and auto assignment of IP addresses (col. 7 line 30 – col. 8 line 22).

It would have been obvious for any one of ordinary skill in the art at the time of invention to utilize the teachings of Bishop into the teachings of Higgins in view of

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Burstein in order to provide a wireless modem that automatically registers with the system.

Regarding claim 8. Higgins in view of Burstein fail to teach detecting location of device.

Bishop teaches wireless modem that is DOCSIS compliant and provides automatic registration, encryption, and auto assignment of IP addresses (col. 7 line 30 – col. 8 line 22).

It would have been obvious for any one of ordinary skill in the art at the time of invention to utilize the teachings of Bishop into the teachings of Higgins in view of Burstein in order to provide a wireless modem that automatically registers with the system.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry W. Taylor, telephone number (571) 272-7509, who is available Monday-Friday, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached at (571) 272-7499. The central facsimile phone number for this group is **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (571) 272-2600, the 2600 Customer Service telephone number is (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read "Barry W. Taylor", with a long horizontal flourish extending to the right.

Barry W. Taylor  
Primary Examiner  
Technology Center 2600  
Art Unit 2643